

MOJAVE DESERT

AIR QUALITY MANAGEMENT DISTRICT

Staff Report

Amendments to

Rule 403.1

Fugitive Dust Control for the
Searles Valley Planning Area

November 7, 1996

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STAFF REPORT

Amendments to Rule 403.1 - Fugitive Dust Control for the Searles Valley Planning Area

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Mojave Desert Air Quality Management District (MDAQMD) Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

Effective November 15, 1990, the Searles Valley Planning Area (SVPA) was designated nonattainment for the PM₁₀ National Ambient Air Quality Standard (NAAQS) by 42 U.S.C. §7407(d)(4)(B) (FCAA §107(d)(4)(B)). On November 25, 1991 the MDAQMD Governing Board adopted the SVPA PM₁₀ Attainment Plan, which was subsequently amended on September 22, 1993. On June 22, 1994 the MDAQMD Governing Board adopted Rule 403.1 to implement the SVPA PM₁₀ Attainment Plan. On July 31, 1995 the MDAQMD Governing Board amended Rule 403.1 to include contingency measures with two triggers: failure to make reasonable further progress, and a PM₁₀ NAAQS violation on or before December 31, 1995. On March 25, 1996 the MDAQMD Governing Board adopted the Attainment Demonstration, Maintenance Plan, and Redesignation Request for the Trona Portion of the SVPA, which included Rule 403.1 as its contingency measure.

As the Trona portion of the SVPA has made reasonable further progress towards the PM₁₀ NAAQS and the maintenance plan applies through the year 2010, both contingency measure triggers must be removed from Rule 403.1 to allow it to continue to serve as the contingency measure required by the maintenance plan. The proposed amendments to Rule 403.1 remove the trigger requirements and update the format of the Rule.

The District has determined that the proposed Rule will not cause or create a significant negative environmental impact. The District has prepared a Notice of Exemption pursuant to the California Environmental Quality Act (CEQA) requirements.

The proposed amendments to Rule 403.1 will not change the amount of emission reductions generated by the rule.

The Draft amended Rule was circulated to affected sources, CARB and USEPA on September 17, 1996. Appropriate notices were published and the Draft amended Rule was made available for public review and comments on October 20, 1996. The Draft amended Rule was presented to the MDAQMD Technical Advisory Committee on October 18, 1996.

Upon adoption, amended Rule 403.1 will be forwarded to USEPA for inclusion into the State Implementation Plan.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board conduct a continued public hearing, make appropriate findings and determinations, certify the Notice of Exemption, and adopt the proposed amendments to Rule 403.1 - *Fugitive Dust Control for the Searles Valley Planning Area*. Such actions are necessary to ensure compliance with the Federal Clean Air Act and CEQA requirements.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for procedurally correct adoption or approval of the Rule. Each item is discussed, if applicable, in section V. Copies of documents are referenced in the discussion or included in the appropriate Appendix.

FINDINGS REQUIRED FOR RULES & REGULATIONS

- X Necessity
- X Authority
- X Clarity
- X Consistency
- X Nonduplication
- X Reference
- X Public Notice & Comment
- X Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- X Public Notice & Comment
- X Public Hearing
- X Availability of Document
- X Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- X Legal Authority to adopt and implement the document
- X Applicable State laws and regulations were followed

ELEMENTS OF A FEDERAL SUBMISSION

- X Elements as set forth in applicable Federal law or regulations

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- X Exemption
- N/A Negative Declaration
- N/A Environmental Impact Report
- X Appropriate findings, if necessary
- X Public Notice & Comment
- N/A Fish & Game Fee Exemption

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- X Environmental impacts of compliance
- X Mitigation of impacts
- X Alternative methods of compliance

OTHER:

- X Economic Analysis
- X Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State and Federal requirements which apply to the adoption of the proposed amendments to Rule 403.1. These are actions which need to be performed and/or information which must be provided to ensure procedurally correct adoption of the rule.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the MDAQMD Governing Board is required to make findings of necessity, authority, clarity, consistency, nonduplication, and reference based upon relevant information presented at the hearing. The information presented below is provided to assist the Board in making these findings:

- a. **Necessity:** The adoption of the proposed amendments to Rule 403.1 is necessary to implement the contingency measure identified in the Attainment Demonstration, Maintenance Plan, and Redesignation Request for the Trona Portion of the SVPA in a federally-enforceable form.
- b. **Authority:** MDAQMD has the authority pursuant to California Health and Safety Code (H & S Code) §40702 to adopt, amend or repeal rules and regulations.
- c. **Clarity:** The proposed rule is clear in that it is written so that its meaning can be easily understood by the persons most likely to be subject to its requirements.
- d. **Consistency:** The proposed rule is in harmony with and not in conflict with or contradictory to any State law and regulations; Federal law and regulations; or court decisions.
- e. **Nonduplication:** The proposed rule does not impose the same requirements as existing state or federal law or regulation because it is necessary to implement the state agricultural burning guidelines at the local level in federally enforceable form.
- f. **Reference:** Federal law calls for maintenance plans to include contingency measures (42 U.S.C. §7505a, FCAA §175A). The adoption of amended Rule 403.1 will satisfy this requirement.

- g. **Public Notice & Comment, Public Hearing:** Notice for the public hearing for the adoption of amended Rule 403.1 was published on October 20, 1996. See also Sections (V)(A)(2)(a), (b) and (d) below.

2. **Federal Elements (SIP Submittals, other Federal Submittals)**

Federal submittals are required to include various elements depending upon the type of document. The information below indicates which elements are required for the adoption of amended Rule 403.1 and how they have been satisfied.

The adoption of amended Rule 403.1 is subject to all the requirements for a SIP submittal. The criteria for determining completeness of SIP submissions are set forth in 40 CFR Part 51, Appendix V, 2.0.

- a. **Public Notice & Comment:** Public notice for the public hearing was published on October 20, 1996. See Appendix B for copies of the public notices and Appendices D and E for comments and MDAQMD responses.
- b. **Availability of Document:** Draft Rule 403.1 was made available to the public on September 17, 1996.
- c. **Notice to Specified Entities:** Copies of the proposed draft Rule 403.1 were sent to USEPA and CARB on September 17, 1996.
- d. **Public Hearing:** At its regular meeting on October 28, 1996, the MDAQMD Governing Board set the date of November 25, 1996 for the public hearing on the proposed amendments to Rule 403.1.
- e. **Legal Authority to adopt and implement the document:** MDAQMD has authority pursuant to H & S Code §40702 to adopt, amend or repeal rules and regulations and to do such acts as may be necessary or proper to execute the duties imposed upon the MDAQMD.
- f. **Applicable State laws and regulations were followed:** Public notice and hearing procedures have been followed pursuant to 42 U.S.C. §7410(1) (FCAA §110(1)) and H & S Code §§40725 and 40726. See Staff Report Section (V)(C) below for CEQA compliance.

B. ECONOMIC ANALYSIS

The proposed amendments to existing Rule 403.1 are administrative changes that remove certain trigger requirements for its contingency measure. As such, they will not result in any fiscal impacts.

Please see Section VI for a discussion of the anticipated emission reductions associated with the Rule.

C. ENVIRONMENTAL ANALYSIS (CEQA)

1. Through the process described below, it was determined that a Notice of Exemption would be the appropriate CEQA process for the adoption of the proposed amendments to Rule 403.1. See Appendix C for a copy of the Notice of Exemption and related documents.
 - a. The adoption of the proposed amendments to Rule 403.1 meets the CEQA definition of "project." It is not a "ministerial" action.
 - b. The adoption of the proposed amendments to existing Rule 403.1 is exempt from CEQA review. The proposed amendments ensure that the SVPA attains and maintains air quality standards, so a categorical exemption applies.
 - c. Because the proposed amendments to existing Rule 403.1 were determined to not be subject to CEQA review, an initial study was not performed.

D. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The proposed amendments are administrative in nature, and are not expected to have any adverse environmental impact whatsoever.

2. Mitigation of Impacts

Due to the unlikelihood of adverse environmental impacts, no mitigation of impacts is required.

E. PUBLIC REVIEW

See Staff Report Sections (V)(A)(2), (3), (4) and (6), as well as Appendices B, D and E.

VI. TECHNICAL DISCUSSION

A. RULE PROPOSAL SUMMARY

This section gives a brief overview of the proposed amendments to Rule 403.1.

(H) Contingency Measures – This section specifies what the contingency measure is (stabilization of public lands), and when it is triggered or required (if the SVPA has failed to make reasonable further progress towards attainment, or if there is a violation of the PM₁₀ NAAQS on or before December 31, 1995. The proposed amendments remove the first trigger, as it no longer applies (the SVPA has attained the PM₁₀ NAAQS). The proposed amendments modify the second trigger to remove the sunset date, making an exceedance of the PM₁₀ NAAQS the only remaining trigger.

B. PROJECT SETTING

The proposed amended Rule applies to the SVPA, which includes the community of Trona.

C. EMISSION REDUCTIONS

No additional emission reductions will result from the proposed amendments to existing Rule 403.1.

APPENDIX "A"

ANNOTATED VERSION OF RULE

The annotated version is provided to present clarifying language.

1. ~~Strike-out~~ is used to indicate text that has been removed in the Second Draft.
2. **Insertion** is used to indicate text that has been added to the Second Draft.
3. *Italicized text* identifies explanatory material which is not part of the proposed language.

Proposed Amended Draft
Rule 403.1
Fugitive Dust Control
for the Searles Valley Planning Area

(A) General

(1) Purpose

- (a)** The purpose of this Rule is to ensure that the National Ambient Air Quality Standards (NAAQS) for Respirable Particulate Matter (PM₁₀) will not be exceeded due to anthropogenic sources within the San Bernardino County portion of the Searles Valley Planning Area (SVPA); and,
- (b)** To implement the control measures contained in the Searles Valley PM₁₀ State Implementation Plan (SIP).

(2) Applicability

- (a)** The requirements of this Rule shall apply to owners or operators of the following sources within the San Bernardino County portion of the SVPA:
 - (i)** Unpaved roads used for industrial activity;
 - (ii)** Paved roads used for industrial activity;
 - (iii)** Construction/Demolition activity;
 - (iv)** Industrial fugitive dust;
 - (v)** Activities on Bureau of Land Management (BLM) land; and
 - (vi)** Disturbed surface areas on public land.

(3) Conflicts with Other District Rules

- (a)** If there is a conflict between the provisions of this Rule and those of District Rule 403, the conflicting provisions of District Rule 403 are superseded.

(B) Definitions

For the purpose of this Rule, the following definitions shall apply:

- (1) "Active Operation" - Activity capable of generating Fugitive Dust, including, but not limited to, storage of Bulk Material, Earth-Moving Activity, Construction/Demolition Activity, and non-emergency movement of vehicles on Unpaved Roads, including such activity on San Bernardino County and Bureau of Land Management properties.
- (2) "Alternative PM₁₀ Control Plan (ACP)" - A plan that incorporates emission reducing measures other than those source-specific measures in section (C), and generates Equivalent Emission Reductions.
- (3) "Baseline Emissions" - Baseline emissions are the product of an emission rate (pounds of PM₁₀ per unit of operations) and an activity rate (number of operations per day). Baseline emission calculations shall include data for permit units included in the ACP. Calculations shall use the lowest of either: (1) the actual emission rate; (2) SIP allowable emission limit; or (3) Reasonably Available Control Technology (RACT) limits (as defined by MDAQMD regulations as of the date of application). Also, calculations shall use the lowest of either actual, or SIP allowable values for the activity rate. Sources lacking specific daily activity rate records may substitute other records establishing daily PM₁₀ emissions. Actual values for activity rates shall be based on the average from data for two years directly preceding the source's application for an ACP, unless another two-year period can be shown to the satisfaction of the Air Pollution Control Officer (APCO) and the United States Environmental Protection Agency (USEPA) to more accurately represent the source's normal allowable operations.
- (4) "Bulk Material" - Sand, gravel, soil, aggregate and any other organic or inorganic solid matter capable of releasing dust, not including salt.
- (5) "Construction/Demolition Activity" - Any on-site mechanical activity preparatory to or related to building, alteration, rehabilitation, demolition or improvement of property that results in Disturbed Surface Area, including the following activities: grading; excavation; loading; crushing; cutting; planning; shaping or ground breaking.
- (6) "Disturbed Surface Area" - Portion of the earth's surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition, thereby increasing the potential for emission of Fugitive Dust. Disturbed surface does not include area restored to a natural state with vegetative ground cover and soil characteristics similar to adjacent or nearby natural conditions.
- (7) "Earth-Moving Activity" - Grading, earth cutting and filling, loading or unloading of dirt or Bulk Materials, adding to or removing from Open Storage Piles of Bulk

Materials, landfilling, or soil mulching.

- (8) "Enforceable" - Included in a Permit to Operate (PTO) or are otherwise enforced by the District, and submitted as a source-specific SIP revision.
- (9) "Equivalent Emission Reductions" - Real, Enforceable, Permanent, Quantifiable, and Surplus emission reductions equal in amount to 120 percent of those required by section (C). Such emission reductions shall be calculated relative to Baseline Emissions. In addition, such emission reductions shall be demonstrated to be equivalent to the reductions required by section (C) using an USEPA-approved modeling demonstration.
- (10) "Fugitive Dust" - Those solid respirable particulate matter emissions which could not reasonably pass through a stack, chimney, or vent. Fugitive emissions are directly or indirectly caused by the activities of man.
- (11) "Heavily Traveled" - Carrying more than ten vehicle trips per day with the majority of those vehicles having three or more axles.
- (12) "National Ambient Air Quality Standards (NAAQS)" - Standards set by the Federal Government that define the acceptable amount of criteria pollutants in the air. Achievement of these standards protects the public's health and welfare.
- (13) "Open Storage Pile" - Any accumulation of Bulk Material with 5 percent or greater silt content not fully enclosed, covered or chemically stabilized. Silt content level shall be assumed to be 5 percent or greater, unless a person can show, by sampling and analysis in accordance with ASTM Method C-136, the silt content is less. Results of ASTM Method C-136 are valid for 60 days from the date the sample was taken.
- (14) "Permanent" - Contained in a permit or other condition which ensures the achievement on each and every operating day, and submitted as a source-specific SIP revision.
- (15) "Quantifiable" - Able to be measured and/or calculated before and after a reducing action using the same test methods.
- (16) "Real" - Represents a reduction in actual emissions.
- (17) "Respirable Particulate Matter (PM₁₀)" - Any material, except uncombined water, existing in a finely divided form as a liquid or solid at standard conditions whose mean aerodynamic diameter is smaller than or equal to 10 micrometers as measured by an applicable test method, or methods found in Article 2, Subchapter 6, Title 17, California Code of Regulations (commencing with Section 94100).
- (18) "Road Surface Silt Loading" - A measurement of the amount of loose material accumulated on a road surface in terms of weight of material per unit area (for purposes of this Rule, as calculated by the test method described in subsection

(F)(1)).

- (19) "Surplus" - Not required by current SIP rules or regulations or relied upon for SIP planning purposes (outside of the Searles Valley PM₁₀ State Implementation Plan), and not used to meet any other regulatory requirements.
- (20) "Searles Valley Planning Area (SVPA)" - A region coterminous with Hydrological Unit Number 18090205 as defined by the United States Geological Survey.
- (21) "Unpaved Road" - Any vehicle travel way not covered by one or more of the following: concrete, asphaltic concrete, or asphalt.
- (22) "United States Environmental Protection Agency (USEPA)" - The Administrator of the Environmental Protection Agency or the appropriate designee.

(C) Requirements

- (1) The owner or operator of a source subject to this Rule shall comply with the requirements contained in this subsection unless the owner or operator has applied for and obtained an Alternative PM₁₀ Control Plan pursuant to section (G).
- (2) The owner or operator of a source subject to this Rule shall:
 - (a) Treat a minimum of 12 miles of heavily traveled unpaved roads on Searles Dry Lake used for industrial activity in a manner sufficient to maintain Road Surface Silt Loading less than or equal to 0.58 ounces per square yard.
 - (i) For purposes of this subsection, weekly brackish watering of non-Heavily Traveled Searles Dry Lake unpaved roads is presumed to be sufficient to maintain Road Surface Silt Loadings less than or equal to 0.58 ounces per square yard.
 - (ii) The owner or operator shall maintain records of treatment activity sufficient to establish location, type and timing of such treatment.
 - (b) Treat a minimum of eight (8) miles of certain heavily traveled unpaved roads, as identified in the Searles Valley PM₁₀ Plan on the Searles Dry Lake, used for industrial activity in a manner sufficient to maintain Road Surface Silt Loading less than or equal to 0.17 ounces per square yard.
 - (i) For purposes of this subsection, treatment with salt and weekly brackish watering is presumed to be sufficient to maintain Road Surface Silt Loadings less than or equal to 0.17 ounces per square yard.
 - (ii) The owner or operator shall maintain records of treatment activity

sufficient to establish location, type and timing of treatment.

- (c) Clean paved roads used for industrial activity on a biweekly basis or more often as needed to ensure that spilled and tracked-on Bulk Material is removed rapidly.
 - (i) The owner or operator shall maintain records of cleaning activities sufficient to establish location, time and amount of cleaning activities.
- (d) Treat or clean heavily traveled paved roads and areas used for industrial activity in a manner sufficient to maintain a Road Surface Silt Loading less than or equal to 2.94 ounces per square yard.
 - (i) For purposes of this subsection, mechanical sweeping and collection on a biweekly basis is presumed to be sufficient to maintain Road Surface Silt Loadings less than or equal to 2.94 ounces per square yard.
 - (ii) The owner or operator shall maintain records of mechanical sweeping and collection sufficient to establish location, time and amount of vacuum sweeping.
- (3) For construction/demolition sources subject to this Rule, the owner or operator shall prepare and follow a District-approved Dust Control Plan that contains the following elements:
 - (a) Provisions to maintain the natural topography to the extent possible during grading and other earth movement;
 - (b) A construction schedule that specifies construction of parking lots and paved roads first, and upwind structures prior to downwind structures;
 - (c) Provisions to cover or otherwise contain Bulk Material carried on haul trucks operating on paved roads; and,
 - (d) Provisions to remove Bulk Material tracked onto paved road surfaces.
- (4) For industrial fugitive dust sources subject to this Rule, the owner or operator shall:
 - (a) Enclose exterior transfer lines greater than thirty (30) feet in length sufficient to cover the top and sides of the bulk material being transferred.
 - (b) Permanently eliminate at least 2,750 square feet of Bulk Material storage pile surface area that was exposed during 1990.
 - (i) The owner or operator shall maintain records of storage pile

reduction or limitation shall be maintained sufficient to identify the location, type (including storage pile silt content) and timing of storage pile modification.

- (c) Cover or otherwise contain Bulk Material carried on haul trucks while operating on paved roads as specified in the Searles Valley PM₁₀ Plan.
 - (i) Fly and bottom ash haul trucks maintaining moisture content of at least 12 percent need not be covered.
- (d) Treat heavily traveled unpaved/paved road access points in a manner sufficient to maintain a Road Surface Silt Loading of 2.94 ounces per square yard on the paved road surface adjacent to the unpaved road.
 - (i) For purposes of this subsection, mechanical sweeping and collection on a biweekly basis is presumed to be sufficient to maintain Road Surface Silt Loadings less than or equal to 2.94 ounces per square yard.
 - (ii) The owner or operator shall maintain records of activities performed to maintain the specified Road Surface Silt Loading sufficient to establish location, time and type of treatment.
- (5) For activities occurring on BLM land, the District and BLM shall jointly prepare a dust control plan that reduces BLM PM₁₀ emissions by at least 20 percent relative to 1990 levels. The dust control plan may include, but not be limited to, the following reasonably available control measures (RACM):
 - (a) Reduce PM₁₀ emissions associated with activities on BLM land by 20 percent relative to 1990 levels;
 - (b) Provide wind and water erosion controls sufficient to minimize deposition of silt on paved roads;
 - (c) Provide for paving or other stabilization of major unpaved/paved road access points;
 - (d) Provide for paving or other stabilization of major vehicle staging and parking areas;
 - (e) Provide for signage that reduces vehicular speeds, particularly during high wind episodes.

(D) Exemptions

- (1) The requirements of this Rule shall not apply to:

- (a) Agricultural operations, as defined by California Health & Safety Code Section 41704(b);
- (b) Actions required by federal or state endangered species legislation;
- (c) Residential property;
- (d) Active Operations conducted during emergency life-threatening situations, or in conjunction with any officially declared disaster or state of emergency;
- (e) Active Operations conducted by essential service utilities to provide electricity, natural gas, telephone, water and sewer during periods of service outages and emergency disruptions;
- (f) Non-periodic (occurring no more than three times per year and lasting less than thirty cumulative days per year) or emergency maintenance of flood control channels and water spreading basins;
- (g) Blasting operations as permitted by the California Division of Industrial Safety;

(E) Recordkeeping

- (1) The owner or operator shall maintain records required by this Rule on site or be readily accessible for at least two years after the date of each entry and shall be provided to the District upon request.

(F) Test Methods

- (1) Compliance with the provisions of this District Rule shall be determined as follows:
 - (a) For Road Surface Silt Loading: shall be calculated in ounces of silt per square yard and be determined by sweeping and vacuuming at least 5 pounds of material from representative strips of known area of the surface and establishing the 75 micron or silt fraction through the use of a 200 mesh screen (USEPA AP-42 "Compilation of Air Pollutant Emission Factors" Section 11.2.6, ASTM Standard D-75 "Standard Practice for Sampling Aggregates," and ASTM Standard C-136 "Sieve Analysis of Fine and Coarse Aggregates").
 - (b) For PM₁₀ emissions and emission reductions: amounts shall be calculated using USEPA "Control of Open Fugitive Dust Sources" (EPA-450/3-88-008).
 - (c) Compliance with the requirement "Cover Haul Trucks" is equivalent to

complying with the vehicle freeboard requirements of Section 23114 of the California Vehicle Code on both public and private roads.

(G) Alternative PM₁₀ Control Plans (ACPs)

- (1) An owner or operator of a source subject to this Rule may, at any time after the adoption of this Rule, apply for and obtain District approval for an ACP as set forth in this subsection.**
- (2) Application**
 - (a) The owner or operator may apply for an ACP by submitting a plan to the District which includes the following elements:**
 - (i) Name(s), address(es), and phone number(s) of the official(s) responsible for the preparation, submittal, and implementation of the ACP;**
 - (ii) Description and location of operation(s);**
 - (iii) Listing of all Active Operations included in subsection (G)(2)(a)(ii) generating Fugitive Dust emissions;**
 - (iv) Estimation of baseline, annual, daily emissions from each source identified in subsection (G)(2)(a)(iii);**
 - (v) Description of actions required by the applicable portion of section (C);**
 - (vi) Description of actions proposed to generate Equivalent Emission Reductions instead of subsection (G)(2)(a)(v). Such description shall be sufficiently detailed to demonstrate Real, Enforceable, Permanent, Quantifiable, and Surplus Equivalent Emission Reductions during all periods of Active Operations;**
 - (vii) Commitment to a post-approval monitoring program to evaluate the effects of subsection (G)(2)(a)(vi) actions; and,**
 - (viii) Description of contingency measures for implementation if actions proposed for subsection (G)(2)(a)(vi) prove insufficient.**
 - (ix) An application for an ACP which proposes using add-on controls to achieve Equivalent Emission Reductions shall specify test methods for both the emission collection system and the control system.**
- (3) Issuance Procedure**

- (a) The owner or operator of a source subject to this Rule electing to obtain an approved ACP shall submit an application for an ACP to the APCO in writing.
 - (i) The owner or operator shall remain subject to federal enforcement of existing section (C) and SIP limits federal approval of unless and until USEPA approves the ACP as a source specific SIP revision pursuant to Section 110(a)(3)(A) of the Federal Clean Air Act.
- (b) The APCO shall either approve, conditionally approve, or disapprove a proposed ACP, in writing, within 30 calendar days of receipt of the ACP, based on the following criteria:
 - (i) The proposed ACP demonstrates equivalent emissions reductions to those required under section (C); and
 - (ii) The proposed ACP does not result in a net increase in any baseline emission of an air pollutant regulated, proposed for regulation, listed or the subject of a "notice-of-intent-to-list" pursuant to the provisions of 42 U.S.C. §7412, National Emission Standards for Hazardous Air Pollutants (Federal Clean Air Act §112 "NESHAPS"). The baseline emissions of a hazardous pollutant shall be determined by the lower of either actual or NESHAPS allowable emissions.
 - (iii) Add-on controls shall not be considered part of an approved ACP unless such control are incorporated in an emissions averaging approach to compliance.
 - (iv) The proposed ACP complies with, all requirements of subsection (G)(3) and all applicable requirements of section (G) shall be satisfied;
- (c) If the APCO conditionally approves an ACP the APCO shall notify the applicant in writing of the ACP's conditional approval and of the deficiencies which require corrections.
 - (i) The applicant shall submit a revised ACP within 90 days or the ACP is automatically deemed disapproved. The APCO shall evaluate the revised ACP based upon the criteria of subsection (G)(3)(b).
- (d) After the APCO approves the proposed ACP the permits for any existing permit units included in the ACP shall be surrendered and new permits incorporating provisions of the ACP shall be issued.
 - (i) ACP emission reductions which are accomplished through equipment shutdown or production curtailment shall have their

permanency ensured by permit or other conditions which limit the total PM₁₀ emissions from the equipment in question.

- (ii) Notwithstanding provisions of District Rule 219, if the ACP encompasses the operation of equipment not requiring a permit, such equipment shall lose its exemption status and require a permit.
 - (e) After approving an ACP, the APCO shall notice a public hearing regarding the ACP before the Governing Board of the District .
 - (i) Such notice shall be published in a newspaper of general circulation at least 30 days prior to the meeting of the Governing Board at which the public hearing is scheduled to take place.
 - (f) At the public hearing the APCO shall recommend that the Governing Board adopt the approved ACP for submission to the California Air Resources Board (ARB) as a SIP submittal.
 - (g) If adopted by the Governing Board, the ACP shall thereafter be submitted by the APCO to ARB for submittal to USEPA as a source-specific revision to the SIP.
- (4) **Renewal**
- (a) An approved ACP shall be valid for a period of one year from the date of approval by the APCO.
 - (b) Approved ACPs shall be resubmitted, annually, at least 90 days prior to expiration date shall expire.
 - (i) If all Fugitive Dust sources and emission reduction-producing actions remain identical to those identified in the previously approved ACP, the resubmittal may contain a simple statement of "no-change." Otherwise a resubmittal shall conform to the requirements of subsection (G)(1).
 - (c) The APCO shall send a list of all approved ACPs to USEPA on an annual basis.
- (5) **Recordkeeping**
- (a) The owner or operator operating under an approved ACP shall maintain daily operating records, information regarding operations, source tests, laboratory analyses, monitoring data, and any other appropriate information in a manner and form sufficient to determine the compliance of the owner or operator with the ACP on a 24-hour basis.
- (6) **Violations**

- (a) Failure to comply with any provisions in an approved or conditionally approved ACP shall be a violation of this Rule.

(H) Contingency Measures

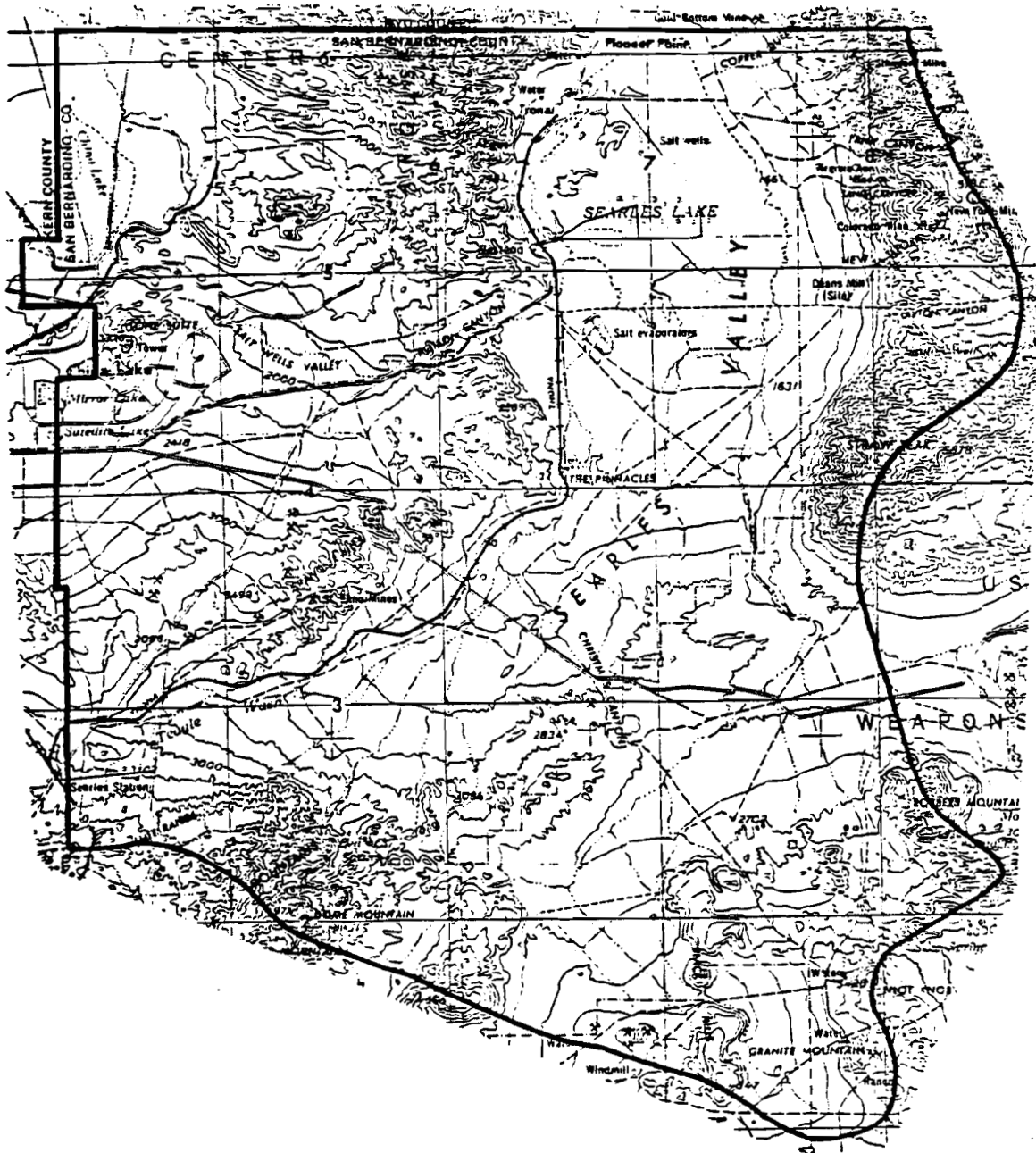
- (1) The requirements of this section only apply if USEPA makes a finding, as evidenced by publication in the Federal Register, that:

- ~~(a) The SVPA has failed to make reasonable further progress toward attainment of the PM₁₀ NAAQS; or *[Deleted as SVPA has attained]*~~
- ~~(b) There has been a violation of the PM₁₀ NAAQS within the SVPA on or before December 31, 1995. *[Sunset clause removed to allow contingency measure to be used as part of maintenance plan]*~~

(2) Contingent Requirements

- (a) The owner of public lands containing disturbed surface areas shall:
 - (i) Treat a minimum of 46 acres to at least a 90 percent control level.
 - (ii) For the purpose of this subsection chemical stabilization shall be presumed to be treatment to a 90 percent control level.
 - (iii) Maintain records of treatment activities sufficient to establish the location, type and timing of such treatment.

Attachment A
Searles Valley Planning Area (San Bernardino County Portion)



APPENDIX "B"

PUBLIC NOTICE DOCUMENTS

Request for Review and Comments on Draft (September 17, 1996)

Proof of Publication for Public Notices for CEQA and November Hearing
October 20, 1996, Daily Press, Victorville
October 23, 1996, Trona Argonaut, Trona

Mojave Desert
Air Quality Management District



15428 Civic Drive, Suite 200, Victorville, CA 92392-2383
(619) 245-1661 Fax No. (619) 245-2699

Charles L. Fryxell
Air Pollution Control Officer

Proposed Revision to
Rule 403.1 -
Fugitive Dust Control for the
Searles Valley Planning Area

Request for Review and Comments

September 17, 1996

Dear Reviewer:

Enclosed you will find a copy of proposed amended Mojave Desert Air Quality Management District (MDAQMD) Rule 403.1 - *Fugitive Dust Control for the Searles Valley Planning Area*. This rule contains requirements several sources of fugitive dust in the Searles Valley. The MDAQMD is proposing to amend existing Rule 403.1 to update the contingency measure section.

On July 31, 1995, the MDAQMD Governing Board adopted a Searles Valley Attainment Demonstration and Maintenance Plan that did not call for any new contingency measures. As a result, existing Rule 403.1 Section (H)(1)(a) no longer applies, and the "sunset clause" of existing Rule 403.1 Section (H)(1)(b) should be deleted. These two changes comprise the only substantive changes to Rule 403.1 being proposed by the MDAQMD.

The MDAQMD requests that you review draft amended Rule 403.1 - *Fugitive Dust Control for the Searles Valley Planning Area* and forward any comments or suggestions to the attention of Christian Ihenacho at the address given below by October 18, 1996. Please contact Alan De Salvio, Air Quality Specialist, at (619) 245-6122 if you have any questions regarding the proposed amendments. The MDAQMD does not expect to hold a public workshop on this Rule due to the limited nature of the amendment, and expects adoption by the MDAQMD Governing Board in November.

Thank you for your time.

Draft cover.doc

PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA,
County of San Bernardino

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the DAILY PRESS, a newspaper of general circulation, printed and published in the City of Victorville, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Bernardino, State of California, under the date of November 21, 1938, Case Number 43096; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

October 20

all in the year 19__96__

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Victorville, California, this 21st day
of October, 19__96__

A. Fitzsimmons
Signature
A. Fitzsimmons

This space is for the County Clerk's Filing Stamp

Proof of Publication of

NOTICE OF HEARING

NOTICE OF HEARING
NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on NOVEMBER 25, 1996 AT 10:00 A.M. to consider adoption of amended Rule 403.1.

SAID HEARING will be conducted in the Governing Board Chambers located in the MDAQMD Offices at 15428 Civic Drive, Suite 200, Victorville, CA 92392-2383 where all interested persons may be present and be heard. Copies of the amended Rule 403.1 - Fugitive Dust Control for the Searles Valley Planning Area and its staff report are on file and may be obtained from the Clerk of the Governing Board at the MDAQMD offices. Written comments may be submitted to Mr. Christian N. Ikenacho, Supervising Air Quality Planner at the above address. Written comments must be received no later than November 18, 1996 to be considered. If you have any questions you may contact Mr. Alan De Salvo at (619)245-6122.

Rule 403.1 will reduce fugitive dust emissions in the Searles Valley. It is being amended to make an administrative change in what triggers the contingency measure. At present, the contingency measure cannot be triggered after December 31, 1995, the amended version will remove this date.

Pursuant to the California Environmental Quality Act (CEQA), the MDAQMD has prepared a Notice of Exemption for Rule 403.01.

LINDA BECK
Clerk of the Governing Board
Mojave Desert Air Quality
Management District
Published in the Daily Press
Oct 20, 1996
(S-87)

AFFAVIT OF PUBLICATION

WHOM IT MAY CONCERN:

A legal notice entitled:

Notice of Hearing

was published in the Trona Argonaut (Adjudication No. 93188) on

October 24, 1996

and the publication is hereby testified.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on November 25, 1996 at 10:00 a.m. to consider adoption of amended Rule 403.1.

SAID HEARING will be conducted in the Governing Board Chambers located in the MDAQMD Offices at 15428 Civic Drive, Suite 200, Victorville, CA 92392-2383 where an interested persons may be present and be heard. Copies of amended Rule 403.1 - *Fugitive Dust Control for the Searles Valley Planning Area* and its staff report are on file and may be obtained from the Clerk of the Governing Board at the MDAQMD Offices. Written comments may be submitted to Mr. Christian N. Ihenacho, Supervising Air Quality Planner at the above address. Written comments must be received no later than November 18, 1996 to be considered. If you have any questions you may contact Alan De Salvio at (619) 245-6122.

Rule 403.1 will reduce fugitive dust emissions in the Searles Valley. It is being amended to make an administrative change in what triggers the contingency measure. At present, the contingency measure cannot be triggered after December 31, 1995. The amended version will remove this date.

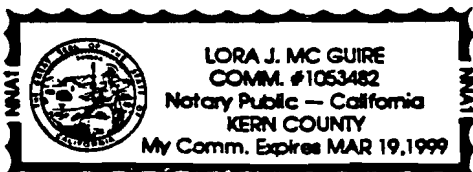
Pursuant to the California Environmental Quality Act (CEQA), the MDAQMD has prepared a Notice of Exemption for Rule 403.1.

LINDA BECK
Clerk of the Governing Board
Mojave Desert Air Quality Management District

State of California }
County of Kern }

On *23 Oct 96* before me, *Lora J. Mc Guire* Notary Public, personally appeared Margaret Ann Grams, ☒ personally known to me -- OR -- ☐ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Lora J. Mc Guire
Signature

Margaret Ann Grams

CAPACITY CLAIMED BY SIGNER:

☒ INDIVIDUAL SIGNING FOR ONESELF

☐ CORTORATE OFFICERS

☐ PARTNER(S)

☐ ATTORNEY-AT-FACT

☐ TRUSTEE(S)

☐ OTHER _____

APPENDIX "C"

CEQA DOCUMENTATION

Notices of Exemption

Mojave Desert
Air Quality Management District



15428 Civic Drive, Suite 200, Victorville, CA 92392-2383
(619) 245-1661 Fax No. (619) 245-2699

Charles L. Fryxell
Air Pollution Control Officer

NOTICE OF EXEMPTION

TO: San Bernardino County
Clerk of the Board
385 N. Arrowhead Ave., 2nd Floor
San Bernardino, CA 92415-0130

FROM: Mojave Desert Air Quality Management District
15428 Civic Drive, Suite 300
Victorville, CA 92392-1661

X MDAQMD Clerk of the Governing Board

Project Title: Amendments to Rule 403.1 - Fugitive Dust Control for the Searles Valley Planning Area

Project Location - Specific: San Bernardino County Portion of the Searles Valley Planning Area (SVPA).

Project Location - County: San Bernardino County

Description of Project: Amendments to an existing rule to remove selected contingency measure trigger requirements.

Name of Public Agency Approving Project: Mojave Desert Air Quality Management District (MDAQMD)

Name of Person or Agency Carrying Out Project: MDAQMD

Exempt Status: (Check One)

 Ministerial (§21080(b)(1); 15268);

 Emergency Project (§21080(b)(4); 15269(b));

X Categorical Exemption (Class 8 - 14 Cal. Code Reg. §15308).

Reason Why Project Is Exempt: The document assures maintenance, restoration, enhancement, and protection of air quality by ensuring that the region attains the Federal PM₁₀ ambient air standards, and will remain in compliance with those standards through the year 2010.

Contact Person: Alan De Salvio

Area Code/Telephone/Ext.: (619) 245-1661 (x6122)

SIGNATURE: Ellen Smith

TITLE: Deputy Air Pollution Control Officer

DATE: 11/25/92

DATE RECEIVED FOR FILING: _____

Mojave Desert
Air Quality Management District



15428 Civic Drive, Suite 200, Victorville, CA 92392-2383
(619) 245-1661 Fax No. (619) 245-2699

Charles L. Fryxell
Air Pollution Control Officer

NOTICE OF EXEMPTION

TO: Clerk/Recorder
Riverside County
3470 12th St.
Riverside, CA 92415

FROM: Mojave Desert Air Quality Management District
.15428 Civic Drive, Suite 300
Victorville, CA 92392-1661

X MDAQMD Clerk of the Governing Board

Project Title: Amendments to Rule 403.1 - Fugitive Dust Control for the Searles Valley Planning Area

Project Location - Specific: San Bernardino County Portion of the Searles Valley Planning Area (SVPA).

Project Location - County: San Bernardino County

Description of Project: Amendments to an existing rule to remove selected contingency measure trigger requirements.

Name of Public Agency Approving Project: Mojave Desert Air Quality Management District (MDAQMD)

Name of Person or Agency Carrying Out Project: MDAQMD

Exempt Status: (Check One)

☐ Ministerial (§21080(b)(1); 15268);

☐ Emergency Project (§21080(b)(4); 15269(b);

☒ Categorical Exemption (Class 8 - 14 Cal. Code Reg. §15308).

Reason Why Project Is Exempt: The document assures maintenance, restoration, enhancement, and protection of air quality by ensuring that the region attains the Federal PM₁₀ ambient air standards, and will remain in compliance with those standards through the year 2010.

Contact Person: Alan De Salvio

Area Code/Telephone/Ext.: (619) 245-1661 (x6122)

SIGNATURE: 

TITLE: Deputy Air Pollution Control Officer

DATE: 11/25/96

DATE RECEIVED FOR FILING:

APPENDIX "D"

PUBLIC COMMENTS AND RESPONSES

Comments Received Prior to November 6, 1996
Jim Sane (October 9, 1996) via facsimile

Responses to Comments

1514.10

**STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
AIR RESOURCES BOARD**



FAX TRANSMISSION

P.O. Box 2815
Sacramento, CA 95812
FAX: (916) 445-5023

Date: October 9, 1996

FAX No Comment Letter

Please Deliver As Soon As Possible To:

Mr. Christian Ihenacho
Supervising Air Quality Planner
Mojave Desert Air Quality Management District
Telephone Number: (619) 245-6122
FAX Number: (619) 245-2699

From: Jim Sane, (916) 327-1509

The following draft rule was received by us on September 20, 1996 for our review:

Rule 403.1 Fugitive Dust Control for the Searles Valley Planning Area

The Air Resources Board staff has reviewed the rule, and based on the information available to us at this time, we have no comments.

The rule was examined by the Compliance Division and the Executive Office, but not by the Stationary Source Division.

Responses To Comments

Letter #1: Jim Sane

1-1 Comment noted.

APPENDIX "E"

ADDITIONAL PUBLIC COMMENTS AND RESPONSES

This section will contain comments received after November 7, 1996, and the responses to those comments.

Mojave Desert

Air Quality Management District



15428 Civic Drive, Suite 200, Victorville, CA 92392-2383
(619) 245-1661 Fax No. (619) 245-2699

Charles L. Fryxell
Air Pollution Control Officer

December 4, 1996

Harry Metzger, Manager
Rule Evaluation Section
California Air Resources Board
Emissions Assessment Branch
P.O. Box 2815
Sacramento, CA 95812

RE: Adoption of Amendments to Rules 403.1 - *Fugitive Dust Control for the Searles Valley Planning Area*; 444 - *Open Outdoor Fires*; and 1114 - *Wood Products Coating Operations*

Dear Mr. Metzger:

Enclosed please find the State Implementation Plan (SIP) submittal packages for the following items which were adopted by the Mojave Desert Air Quality Management District (MDAQMD) Governing Board on November 25, 1996:

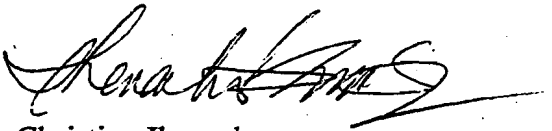
- Amended MDAQMD Rule 403.1 - *Fugitive Dust Control for the Searles Valley Planning Area*;
- Amended MDAQMD Rule 444 - *Open Outdoor Fires*; and
- Amended MDAQMD Rule 1114--*Wood Products Coating Operations*.

The MDAQMD requests that you submit the above items to the U.S. Environmental Protection Agency (USEPA) as SIP revisions. The submission packages include SIP Completeness Checklists, the Rules, the resolutions, the minute orders, Rule Evaluation Forms, SIP Approvability Checklists and staff reports. Public notice evidence, public comments and responses are included in the staff reports.

Rules 403.1, 444 and 1114, continued

The MDAQMD appreciates the help that CARB staff has provided in the development of these documents. Please feel free to contact me or Ms. Cynthia Specht, Air Quality Specialist, at (619) 245-1661 ext. 5597 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Christian Ihenacho", with a stylized flourish extending to the right.

Christian Ihenacho
Supervising Air Quality Planner

Enclosures

CNI/CS

cc: Andrew Steckel, USEPA
Paul Buttner, ARB w/o attachments